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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,529	12/18/2000	Rabindranath Dutta	AUS9-2000-0724-US1	8387
7590	03/21/2005		EXAMINER	
Joseph R. Burwell Law Office of Joseph R. Burwell P. O. Box 28022 Austin, TX 78755-8022			CHAU, COREY P	
			ART UNIT	PAPER NUMBER
			2644	
DATE MAILED: 03/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/740,529	DUTTA, RABINDRANATH
	Examiner	Art Unit
	Corey P Chau	2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 December 2004.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.  
 4a) Of the above claim(s) 6-14 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date 12/18/00.
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I, claims 1-5 in the reply filed on 12/10/2004 is acknowledged.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2456346 to Veneklasen.
4. Regarding Claim 1, Veneklasen discloses a sound muffling device (Fig. 1) comprising: a body (Fig. 1) having a substantially closed end (Fig. 1) and a substantially open end (27,28), wherein the substantially closed end has at least one opening (5'), and wherein the substantially open end has a size and contour such that the substantially open end is adapted to be placed over a mouth of a user while engaging a face of the user to form an effective sound seal around the mouth (Fig. 1; column 2, lines 17-39; claim 2); a sound wave guidance tube (Fig. 1), wherein the sound wave guidance tube has a first end connected to the substantially closed end of the body, and wherein an opening of the sound wave guidance tube and an opening in the substantially closed end of the body are substantially matched to allow sound waves to pass from the body into the sound wave guidance tube (Fig. 1; column 2, lines 40-55;

claim 2); and an adapter for connecting a second end of the sound wave guidance tube to an exterior case of a portable phone in close proximity to a microphone on the portable phone (i.e. a telephone is able to move around and is therefore portable)(Fig. 1; column 1, lines 1-13).

5. Regarding Claim 2, Veneklasen discloses an ear cover attached to the body (Fig. 1), wherein the ear cover extends to substantially cover an ear of the user in order to muffle sound entering the ear (column 1, lines 31-51).

6. Regarding Claim 3, Veneklasen discloses the adapter comprises a suction cup for attaching the second end of the sound wave guidance tube (Fig. 1; column 1, line 52 to column 2, line 8).

7. Claims 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1368261 to Jenkins.

8. Regarding Claim 4, Jenkins disclose a sound muffling device (Fig. 1) comprising: a body (5) having a substantially closed end (Figs. 1-4) and a substantially open end (8,9), wherein the substantially closed end has at least one opening (Figs. 1-4), and wherein the substantially open end has a size and contour such that the substantially open end is adapted to be placed over a mouth of a user while engaging a face of the user to form an effective sound seal around the mouth (Fig. 1; column 2, line 90-104); a microphone attached to the body (6), wherein the microphone generates an output electrical signal responsive to sound waves from a voice of the user; an electrical conductor for carrying the generated output signal from the microphone (Figs. 1-3); and

an adapter for connecting the electrical conductor to an electrical contact on a portable phone such that the microphone acts as an exterior microphone for the portable phone (column 1, lines 9-34).

9. Regarding Claim 5, Jenkins discloses an ear cover attached to the body, wherein the ear cover extends to substantially cover an ear of the user in order to muffle sound entering the ear (Fig. 1; column 3, lines 39-53).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey P Chau whose telephone number is (703)305-0683. The examiner can normally be reached on Monday - Friday 9:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tran Sinh can be reached on (703)305-4040. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). 

March 18, 2005



XU MEI  
PRIMARY EXAMINER